

Rec'd PCT/PTO 13 NOV 2002

PATENT  
Attorney Docket No. 25708.0038

*[Handwritten signature]*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<i>In re</i> patent application of:	§	Confirmation No. 7719
	§	
Friedrich W.Kuehne <i>et al.</i>	§	Group Art Unit:
	§	
Serial No.: 10/049,658	§	Examiner: To be assigned
	§	
Filed: February 15, 2002	§	

Title: CHEMICALLY-STABILIZED CHLORITE SOLUTIONS FOR TREATING  
CANCER AND OTHER DISEASES

14 MAR 2003  
Laboratory  
International Division

Assistant Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

Dear Sir:

**PETITION TO ACCOMPANY OATH OR DECLARATION WHEN THERE IS A  
NONSIGNING INVENTOR UNDER 37 C.F.R. § 1.47**

Applicants submit herewith the attached Declaration and Power of Attorney executed by one of the two inventors named in the captioned application. The nonsigning inventor, Dr. Vitam Kodelja, has not responded to several attempts to contact him. Specifically, Dr. Kodelja has not responded to letters sent at least on May 21 and August 7, 2002, and to a courier package delivered directly to his home on September 27, 2002. A copy of the Federal Express Airbill and tracking confirmation recording delivery of the package are attached to this petition. Accordingly, applicants respectfully petition pursuant to 37 C.F.R. § 1.47(a) for acceptance of this declaration in satisfaction of the Notice of Missing Requirements mailed April 17, 2002.

11/22/2002 HKAYPAGH 00000015 081641 10049658  
03 FC:1460 130.00 CH

Dr. Kodelja's last known address is:

Dr. Vitam Kodelja, Birkbuschstrasse 14, 12167 Berlin, Germany.

Please charge the requisite processing fee of \$130, as set forth in 37 C.F.R. § 1.17(h), to the undersigned's Deposit Account, No. 08-1641. If there are any other fees due with the filing of this Petition, please charge any and all such fees to Deposit Account No. 08-1641.

Respectfully submitted,  
HellerEhrman

Date: November 18, 2002

By: \_\_\_\_\_



Paul M. Booth  
Registration No. 40,244

**Customer Number 26633**

HELLER EHRMAN WHITE & McAULIFFE LLP  
1666 K Street, N.W., Suite 300  
Washington, DC 20006  
(202) 912-2000  
(202) 912-2020



**26633**  
PATENT TRADEMARK OFFICE

# edEx International Air Waybill

Express For all international shipments

Sender's FedEx Account Number **2366-5576-0**

Sender's Name **Paul M. Booth** Phone **301 726-6100**

Company **HELLER EHRMAN WHITE MAULIFF**

Address **101 ORCHARD RIDGE DR STE 300**

City **GAITHERSBURG** State **MD**

Country **USA** ZIP Postal Code **20879**

Internal Billing Reference **OPTIONAL 25708.0038**

Recipient's Name **Dr. Vitam Kodolja** Phone **011 49 30 834 9631**

Company

Address **Birkbuschstrasse 14**

City **Berlin** State **Province**

Country **GERMANY** ZIP Postal Code **12167**

Recipient's Tax I.D. number for Customs purposes

Shipment Information

Number of Packages **One** Total Weight **5** lbs. **kg** DIM **12.5** in. **cm**

Commodity Description REQUIRED	Harmonized Code	Country of Manufacture	Value for Customs REQUIRED
Legal Correspondence			US \$1.00

Port of Origin: Check One ☒ No SED required, value \$2500 or less per Schedule B Commodity number ☐ SED required per Exemption

Total Declared Value for Carriage **US \$1.00**

Total Value for Customs (Specify Currency) **US \$1.00**

Not all services and options are available to all destinations.

## 5 Express Package Service

☒ FedEx Intl. Priority ☐ FedEx Intl. First Available to select locations Higher rates apply.

☐ FedEx Intl. Economy FedEx Envelope and FedEx Pak rates not available

☐ NEW FedEx Intl. Extra Hours Available to select locations

## 6 Packaging

☒ FedEx Envelope ☐ FedEx Pak ☐ Other Pkg. Includes FedEx Box, FedEx Tube, and customer pkg.

☐ FedEx 10kg Box ☐ FedEx 25kg Box

## 7 Special Handling

☐ HOLD at FedEx Location ☐ SATURDAY Delivery Available to select locations Available for FedEx Intl. Priority only

Shipper must check/tick: This shipment does not contain Dangerous Goods. Dangerous Goods cannot be shipped using this Air Waybill.

## 8a Payment Bill transportation charges to:

☒ Sender Acct. No. in Section 1 will be billed. ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check/Cheque FedEx Use Only

Enter FedEx Acct. No. or Credit Card No. below.

FedEx Acct. No. Credit Card No. Exp. Date

## 8b Payment Bill duties and taxes to:

☒ Sender Acct. No. in Section 1 will be billed. ☐ Recipient ☐ Third Party

Enter FedEx Acct. No. below.

FedEx Acct. No.

## 9 Required Signature

Use of this Air Waybill constitutes your agreement to the Conditions of Contract on the back of this Air Waybill, and you represent that this shipment does not require a U.S. State Department License. Certain international treaties, including the Warsaw Convention, may apply to this shipment and limit our liability for damage, loss, or delay, as described in the Conditions of Contract.

WARNING: These commodities, technology, or software were exported from the United States in accordance with Export Administration Regulations. Diversion contrary to U.S. law prohibited.

Sender's Signature: *[Signature]* Date Executed: **9/25/2003**

This is not authorization to deliver this shipment without a recipient signature.

For Completion Instructions, see back of fifth page.

FedEx Tracking Number

**8302 5022 8530**

Form I.D. No.

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**0402**

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**Tracking Number** 830250228530  
**Reference Number** 25708 0038  
**Ship Date** 09/25/2002  
**Delivered To** Receipt/Frnt desk  
**Delivery Location** BERLIN DE  
**Delivery Date/Time** 09/27/2002 13:30  
**Signed For By** .GRAETZ  
**Service Type** Priority Letter

**Tracking Options**

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Scan Activity	Date/Time	Comments
DeliveredBERLIN DE	09/27/2002 13:30	
On FedEx vehicle for deliveryBERLIN DE	09/27/2002 10:16	
Package statusBERLIN DE	09/27/2002 09:20	Package at station - awaiting courier
Arrived at FedEx Destination LocationBERLIN DE	09/27/2002 09:20	
Package statusFRANKFURT DE	09/27/2002 00:18	
Package statusFRANKFURT DE	09/27/2002 00:13	Package available for clearance
Left FedEx Sort FacilityNEWARK NJ	09/26/2002 02:31	
Arrived at Sort FacilityNEWARK NJ	09/26/2002 01:04	
Left FedEx RampDULLES VA	09/25/2002 23:21	
Arrived at FedEx RampDULLES VA	09/25/2002 21:58	
Left FedEx Origin LocationROCKVILLE MD	09/25/2002 20:14	
Picked up by FedExROCKVILLE MD	09/25/2002 17:45	

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**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**CHEMICALLY-STABILIZED CHLORITE SOLUTIONS FOR TREATING CANCER AND OTHER DISEASES**

the specification of which (check one)

       is attached hereto.

  X   was filed on February 15, 2002 as U.S. Patent Application No. 10/049,658

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of

any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date
60/149,429	August 18, 1999

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number
	PCT/US00/22610	August 18, 2000	

I HEREBY APPOINT the following registered attorneys and agents of the law firm of **Heller Ehrman White & McAuliffe** to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith:

PAUL BOOTH	Reg. No. 40,244
PATRICIA D. GRANADOS	Reg. No. 33,683
JOHN P. ISACSON	Reg. No. 33,715
RONALD J. KAMIS	Reg. No. 41,104
MARVIN A. MOTSENBOCKER	Reg. No. 36,614
JAMES REMENICK	Reg. No. 36,902
COLIN G. SANDERCOCK	Reg. No. 31,298
SUSAN E. SHAW MCBEE	Reg. No. 39,294

Attorney Docket No.: 25708-0038

and I request that all correspondence be directed to:

Colin G. Sandercock, Esq.  
HELLER EHRMAN WHITE & MCAULIFFE  
1666 K Street, NW, Suite 300  
Washington, DC 20006  
Telephone: (202) 912-2000  
Facsimile: (202) 912-2020

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Name of first inventor

Friedrich W. Kuehne

Residence

Bangkok, Thailand

Citizenship

German

Post Office Address

155/1 Mochan Panya Soi 23, Pattanakarn Road, Bangkok  
10250

Inventor's signature

Date

*F. W. Kuehne*  
18/11/02

Name of first inventor

Vitam Kodelja

Residence

South San Francisco, CA

Citizenship

Swiss

Post Office Address

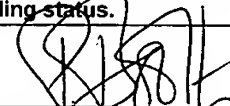
601 Gateway Boulevard, Suite 450, South San Francisco, CA  
94080

Inventor's signature

Date



Revised PCT/PTC 13 NOV 2002

U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.50) <b>10/049,658</b>		INTERNATIONAL APPLICATION NO. <b>PCT/US00/22610</b>		ATTORNEY'S DOCKET NUMBER <b>25708.0038</b>	
17. <input checked="" type="checkbox"/> The following fees are submitted:				<b>CALCULATIONS</b> <small>PTO USE ONLY</small>	
<b>Basic National Fee (37 CFR 1.492(a)(1)-(5):</b> Neither international preliminary examination fee (CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO..... <b>\$1000.00</b>  International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO..... <b>\$860.00</b>  International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO..... <b>\$710.00</b>  International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4)..... <b>\$690.00</b>  International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4)..... <b>\$100.00</b>					
<b>ENTER APPROPRIATE BASIC FEE AMOUNT =</b>					
*Surcharge of \$130.00 for furnishing the oath or declaration later than 20 ____ 30 <u>X</u> months from the earliest claimed priority date (37 CFR 1.492(e))					
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total Claims	- 20		X \$18.00		
Independent Claims	- 3		X \$80.00		
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ \$270.00	
<b>TOTAL OF ABOVE CALCULATIONS =</b>					
<input type="checkbox"/> Applicants claim small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.					
<b>SUBTOTAL =</b>					
Processing fee of \$130.00 for furnishing English translation later the 20 ____ 30 ____ months from the earliest claimed priority date (37 CFR 1.492(f)).				+	
<b>TOTAL NATIONAL FEE =</b>					
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). <b>\$40.00</b> per property +					
<b>TOTAL FEES ENCLOSED =</b>					
11/22/2002		KAYPAGH 00000015 081641 10049658		Amount to be:	
01 FC:1617		130.00 CH		refunded \$	
				charged: \$130.00	
a. A check in the amount of \$____ to cover the above fees is enclosed. b. <input checked="" type="checkbox"/> Please charge my Deposit Account No. <u>08-1641</u> in the amount of <u>\$130.00</u> to the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>08-1641</u> . A duplicate copy of this sheet is enclosed. <b>NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.</b>					
SEND ALL CORRESPONDENCE TO:  <b>HELLER EHRMAN WHITE &amp; MCAULIFFE, LLP</b> Intellectual Property Department 1666 K Street, N.W., Suite 300 Washington, DC 20006 (202) 912-2000 (telephone) (202) 912-2020 (facsimile)					
				 SIGNATURE	
				NAME: <u>PAUL M. BOOTH</u>	
				REGISTRATION NUMBER: <u>40,244</u>	
				DATE: <u>NOVEMBER 18, 2002</u>	



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/049,658	Friedrich W. Kuehne	25708-0038

INTERNATIONAL APPLICATION NO.
-------------------------------

PCT/US00/22610

26633  
HELLER EHRMAN WHITE & MCAULIFFE LLP  
1666 K STREET,NW  
SUITE 300  
WASHINGTON, DC 20006

I.A. FILING DATE	PRIORITY DATE
08/18/2000- <sup>1</sup>	08/18/1999

CONFIRMATION NO. 7719

371 FORMALITIES LETTER



\*OC000000007879639\*

Date Mailed: 04/17/2002

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Priority Document
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- \$130 Surcharge for providing the oath or declaration later than the appropriate 30 months months from the priority date (37 CFR 1.492(e)) is required.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$130** for a Large Entity:

- **\$130** Late oath or declaration Surcharge.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

Telephone: (703) 305-3656

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/049,658	PCT/US00/22610	25708-0038

FORM PCT/DO/EO/905 (371 Formalities Notice)